

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/AT2004/000054

International filing date (day/month/year)
12.02.2004

Priority date (day/month/year)
03.11.2003

International Patent Classification (IPC) or both national classification and IPC
A61K7/32, A61K33/04, D06M1/52

Applicant
SICEM INDUSTRIALE S.P.A.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Authorized Officer

Blas, V



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IT2004/000054

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
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Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

WRITTEN OPINION OF THE
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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 1-11 13 14

because:

- ☒ the said international application, or the said claims Nos. 1-11 with respect to industrial applicability relate to the following subject matter which does not require an international preliminary examination (*specify*):

see separate sheet

- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 2-5 13 14 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

- ☒ the claims, or said claims Nos. 3-5 13 14 are so inadequately supported by the description that no meaningful opinion could be formed.

- ☐ no international search report has been established for the whole application or for said claims Nos.

- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

- ☐ has not been furnished

- ☐ does not comply with the standard

the computer readable form

- ☐ has not been furnished

- ☐ does not comply with the standard

- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IT2004/000054

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3-11 14-18
	No: Claims	1 2 12 13 19
Inventive step (IS)	Yes: Claims	3-11 14-16 18
	No: Claims	1 2 12 13 17 19
Industrial applicability (IA)	Yes: Claims	12-19
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

and / or

2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

Re Item III.

1. Claims 1-11 relate to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT. Consequently, no opinion will be formulated with respect to the industrial applicability of the subject-matter of these claims (Article 34(4)(a)(I) PCT).

2. Moreover, if the claims are amended to e.g. a composition per se, then, present claims 3-5, 13 and 14 relate to a composition and method defined by reference to a desirable characteristic or property, namely a resin capable of stably fixing the active principle and to release it gradually in the course of time.

The claims cover all resins having this characteristic or property, whereas the application provides support within the meaning of PCT Article 6 and disclosure within the meaning of PCT Article 5 for only a very limited number of such resins.

In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible.

Independent of the above reasoning, the claims also lack clarity (PCT Article 6). Moreover, the subject-matter of claims 2 and 13 are defined by their intended use (see PCT guidelines 5.35) . An attempt is made to define the method and composition by reference to a result to be achieved. Again, this lack of clarity in the present case is such as to render a meaningful search over the whole of the claimed scope impossible.

Consequently, the search has been carried out for those parts of the claims which appear to be clear, supported and disclosed, as if claims 1-11 would relate to a composition per se, namely compositions comprising acrylic, silicone, butadiene or polyurethane resins.

Re Item V.

Remarks:

- a. For the sake of examination, it is assumed that claims 13-18 are composition claims depending of the composition claim 12.
- b. The examination of claims 3-5, 13 and 14 has been limited to the part as defined above (Item III)

1. The following documents are referred to in this communication:

D1 : DATABASE WPI
Derwent Publications Ltd., London, GB; Class B07, AN 1998-026920
XP002305423
1997 (1997-11-04)

D2 : DATABASE WPI Section Ch, Week 199743
Derwent Publications Ltd., London, GB; Class A11, AN 1997-466495
XP002305424 &; JP 09 217274 A (ASAHI KASEI KOGYO
KK) 19 August 1997 (1997-08-19)

D3 : DATABASE WPI Section Ch, Week 200135
Derwent Publications Ltd., London, GB; Class D21, AN 2001-329361
XP002305426 & BR 9 903 830 A (CARVALHO
MATTOSINHO J B) 24 April 2001 (2001-04-24)

D4 : US 4 260 660 A (MCCARTER ROBERT J) 7 April 1981 (1981-04-07)

- ## 2. INDEPENDENT CLAIMS 1, 12 and 19

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1, 12 and 19 is not new in the sense of Article 33(2) PCT. Document D1 discloses sanitary pads comprising a nonwoven fabric bearing sulphur to prevent growth of athlete's foot bacteria (Tinea Pedis) and to deodorise foot odour. Document D2 also discloses antibacterial nonwoven-fabrics comprising colloidal sulphur for preventing athletes foot.
- 2.2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 12 is not new in the sense of Article 33(2) PCT.

Document D3 discloses a capillary cream containing sulphur, vaseline and lanoline.

- 2.3 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 12 and 19 is not new in the sense of Article 33(2) PCT. Document D4 discloses textile materials which have been treated with a composition comprising sulphur and a latex chosen from acrylic type latex and butadiene rubber type latex (see example 3, lines 48-54).

3. DEPENDENT CLAIMS 2, 13 AND 17:

Dependent claims 2, 13, 17 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).